

# **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

## **INITIAL STATEMENT OF REASONS**

TITLE 13, CALIFORNIA CODE OF REGULATIONS  
DIVISION 2, CHAPTER 6.5, AMEND ARTICLE 9, SECTION 1293

### **WHEELCHAIR SCHOOL BUSES (CHP-R-06-17)**

#### **PURPOSE OF REGULATIONS AND PROPOSED AMENDMENTS**

The California Highway Patrol (CHP) proposes to amend regulations in Title 13, California Code of Regulations (13 CCR), related to requirements for wheelchair school buses.

Section 2402 of the California Vehicle Code (VC) authorizes the CHP to adopt and enforce rules and regulations necessary to carry out its duties. Section 34501.5 VC authorizes the department to adopt reasonable rules and regulations that, in the judgment of the department, are designed to promote the safe operation of vehicles described in Sections 38045 and 82321 of the Education Code and Sections 545 and 34500 VC.

The CHP adopted standards for wheelchair school buses, in approximately 1979. These standards are contained in Section 1293, Title 13, California Code of Regulations (13 CCR).

In 1989 through the enactment of Section 34501.1 VC, the Legislature further directed that all “wheelchair lifts for buses, school buses, youth buses, and general public paratransit vehicles, regardless of capacity” be certified by the manufacturer to the CHP that they meet “the California law and any federal law and the regulations adopted thereto.”

The National Highway Traffic Safety Administration (NHTSA) has now adopted performance standards into the Federal Motor Vehicle Safety Standards (FMVSS) for all wheelchair lifts intended for use on all motor vehicles, including all buses as well as private personal passenger vehicles. These standards are contained in FMVSS Nos. 403 and 404 (49 CFR 571.403 and 571.404). Under the FMVSS it is unlawful for any party to manufacture for sale any wheelchair lift for any motor vehicle that does not comply with the standard. It is further unlawful for any motor vehicle dealer to sell any new vehicle with a wheelchair lift installed that does not comply with the standards for both the wheelchair lift itself and the installation of the wheelchair lift in the vehicle.

In response to the adopted FMVSS, the CHP now proposes to amend Section 1293. By proposing this regulatory action, the CHP’s purpose is to fully harmonize California regulation with federal regulation as required by the Motor Vehicle Safety Act, Chapter 301,



Title 49, United States Code (49 USCS §§ 30101 et seq.), and to extend the benefits of the federal regulation to all wheelchair school buses.

In adopting the standards contained in the FMVSS into 13 CCR, the CHP notes that these standards apply to all wheelchair lifts intended to be installed in motor vehicles. Failure to comply with these standards is a violation of federal law. Consequently, every manufacturer or installer of wheelchair lifts, whether intended for interstate or intrastate commerce is required to adhere to the federal standards. Therefore, adopting these standards into 13 CCR will have no adverse economic impact on any manufacturer or installer of wheelchair lifts, since they are already required to comply with the federal standard by federal law. Adopting these standards into 13 CCR merely gives the CHP and allied agencies authority to enforce these standards.

### **SECTION BY SECTION OVERVIEW**

Section 1293(a) Deleted language requiring aisles, passageways and exits to be maintained for pupils not seated in wheelchairs due to a duplication of the requirements in FMVSS.

Section 1293 (b) Deleted language requiring the owner of a school bus to provide a wheelchair to be used for testing performance of vehicle equipment.

Section 1293 (c) Existing subsection (c) will be redesignated as (e) to accommodate the insertion of new subsection (c) which allows seat modification if done in accordance with the provisions of this new section.

Section 1293(d) Existing subsection (d) will be redesignated as (f) to accommodate the insertion of new subsection (d). Added language to indicate the number of seating positions of a school bus manufactured on or after January 1, 2004, for the sole purpose of indicating maximum wheelchair capacity.

Section 1293 (e) Existing subsection (e) will be redesignated as (g) to accommodate the insertion of language moved from subsection (c). Amended language requiring instructions to be displayed on the exterior of the vehicle to allow them to be displayed on the interior if visible to the operator.

Section 1293 (f) Existing subsection (f) will be redesignated as (h) to accommodate the insertion of language moved from subsection (d). Amended requirement for emergency passageway width to be increased from nine inches to twelve inches. Deleted language requiring an aisle to be provided as wide as necessary to effect a rapid evacuation of any wheelchair containing a pupil during an emergency.

Section 1293 (g) Existing subsection (g) will be redesignated as (i) to accommodate the insertion of language moved from subsection (e). Amended language for hoist or elevator and changed to wheelchair loading device. Also deleted the requirement for all exposed edges or other hazardous protrusions to be padded within three inches of the floor, thereby mandating padding to completely cover them all.



Section 1293 (h) Added new subsection (h) to accommodate the insertion of language moved from subsection (d). Added language advising that school buses manufactured and maintained in compliance with FMVSS 571.217 and 571.22 shall be deemed in compliance with the wheelchair securement and seating requirements of this section.

Section 1293 (i) Added new subsection (i) to accommodate the insertion of language moved from subsection (g). Removed language requiring wheelchair owner to equip and maintain a restraining belt on their chair. Added language requiring all school buses manufactured after October 1, 1997, to have at each wheelchair location, occupant pelvic and torso restraints attached to anchorages required by FMVSS 571.222, S5.4.3. Further, each wheelchair occupant restraint shall comply with the requirements for Type 2 safety belt systems as described in FMVSS 571.209.

## **STUDIES/RELATED FACTS**

Prior to the implementation of FMVSS 571.403 and 571.404, there were no performance standards for wheel chair lifts or wheel chair lift installations. The proposed amendments will harmonize California regulations with FMVSS 571.209, Seat Belt Assemblies, 571.210, Seat Belt Assembly Anchorages and 571.222, School Bus Passenger Seating and Crash Protection, and will help eliminate any confusion of differences between the two.

## **ALTERNATIVES**

The CHP has not identified any alternative, including the no-action alternative that would be more effective and less burdensome for the purpose for which this action is proposed. Additionally, the CHP has not identified any alternative which would be as effective and less burdensome to affected persons other than the action being proposed.

### *Alternatives Identified and Reviewed*

1. Make no changes to the existing regulations. This alternative was rejected because it fails to comply with the preemption provisions of the Motor Vehicle Safety Act and the provisions of Sections 24011 and 34501.1 VC.
2. Repeal the existing regulations. This alternative was rejected because it fails to comply with the provisions of Sections 24011 and 34501.1 VC.

## **LOCAL MANDATE**



These regulations do not impose any new mandate on local agencies or school districts, other than those imposed by the FMVSS.

### **ECONOMIC IMPACT ON BUSINESS**

The CHP has not identified any significant adverse impact on businesses. Any additional costs to businesses are a result of the adoption of the federal standards which school bus manufacturers are already required to comply with through the federal rules.

### **FISCAL IMPACT TO THE STATE**

The Department has determined these regulation amendments will result in:

- No significant increased costs for manufacturers, installers or purchasers of wheelchair lifts or wheelchair lift-equipped vehicles, beyond that provided by the FMVSS. This rulemaking action will simply conform 13 CCR with the FMVSS;
- No significant compliance cost for persons or businesses directly affected, beyond that provided by the FMVSS;
- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public;
- No impact on the level of employment in the state; and
- No impact on the competitiveness of this state to retain businesses, as these standards have been adopted at the federal level and apply uniformly to all states.